

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

JAMES RIVER EQUIPMENT, VIRGINIA, LLC,

Plaintiff,

v.

CIVIL ACTION NO. 5:13-cv-28160

JUSTICE ENERGY COMPANY, INC.,

Defendant.

**ORDER**

The Court has reviewed the Plaintiff's *Motion for Appointment of Commissioner* (Document 17) filed on July 16, 2014. The Plaintiff "requests that this Court enter an Order appointing a Commissioner to conduct proceedings in aid of execution upon James River Equipment's judgment against Justice Energy Company, Inc. ("Justice Energy") in this matter." (Document 17 at 1.) The Plaintiff maintains that, pursuant to Rule 69(a) of the Federal Rules of Civil Procedure, state law applies for procedures to aid in judgment or execution, and that further, "in West Virginia, ascertainment of the estate of a judgment debt . . . is accomplished through proceedings before a Commissioner in Chancery in the county in which the debtor resides." (*Id.*) (erroneous citation omitted). The Plaintiff requests "that the Court appoint United States Magistrate Judge R. Clarke VanDervort . . . to act as Commissioner in aid of execution of the Court's judgment order. (*Id.* at 2.) To date, the Defendant has not filed a response in opposition.<sup>1</sup>

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<sup>1</sup> The Court notes that, to date, the Defendant has not appeared in this matter or otherwise contested the validity

Accordingly, and after careful consideration, the Court **ORDERS** that the Plaintiff's *Motion for Appointment of Commissioner* (Document 17) be **GRANTED**, and further **ORDERS** that the Honorable R. Clarke VanDervort, United States Magistrate Judge, **be appointed to serve as commissioner in this matter, in accordance with West Virginia Code § 38-5-1 et seq.**

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: August 1, 2014



IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA